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Report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Peacebuilding Support Office in that country

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1233 (1999), by which the Council requested me to keep it regularly informed and to submit a report to it on developments in Guinea-Bissau and on the activities of the United Nations Peacebuilding Support Office in Guinea-Bissau (UNOGBIS). Subsequently, in paragraph 11 of Security Council resolution 1580 (2004), the Council requested me to submit a written report to it every three months.

2. The present report focuses on developments since my last report on 15 December 2004 (S/2004/969) and contains my recommendations in response to the Council's request, contained in paragraph 10 of resolution 1580 (2004), to conduct a review of UNOGBIS with a view to adjusting its capacities to meet the requirements of its revised mandate.

II. Political situation

3. During the period under review, the country has remained peaceful, although the political situation is still difficult and complex. The Government has been engaged in preparations for presidential elections, which, as provided for in the Political Transition Charter, were envisaged by 7 May 2005. It has also obtained the necessary parliamentary consensus to pass the State budget for 2005, re-engaged in dialogue with its development partners and continued its efforts towards restoring the rule of law and improving fiscal management. While continuing to face a difficult financial situation, the Government was nevertheless able to pay salaries up to December 2004, in time for the end of year festivities, thereby dissipating the potential for social unrest.

4. The holding of the presidential elections within the time frame stipulated in the Political Transition Charter is a key benchmark for the full restoration of constitutional normalcy. However, the combination of the slow pace of electoral preparations and the demands, by most political parties, for a completely new voter register are likely to have an impact on the election date. A consolidated budget totalling €4.9 million euros for registration and electoral operations was submitted

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to Guinea-Bissau's international partners on 17 January 2005. Portugal has responded by donating various electoral materials, while the European Union has also expressed its intention to donate €1.2 million.

5. Since some 20 political parties challenged the accuracy of the 2004 voter register and demanded a new voter registration exercise, the Government, the National Election Commission and political parties have agreed to carry out an in-depth revision of the electoral register involving the issuance of new voting cards. Agreement on this critical measure helped reach a subsequent consensus on the date of the elections, expected to be held in June 2005, which means that the timetable set out in the Political Transition Charter will not be strictly observed. The mutiny of 6 October 2004, which resulted in significant delays in the preparatory work, and the lack of financial resources are advanced as the main reasons for this delay, which can be considered reasonably justified.

6. On 28 February 2005, the National Popular Assembly began its new session. The agenda of the session, which will continue until 28 March 2005, includes a debate on an amnesty bill for all involved in various military actions from 1980 to 6 October 2004, as well as amendments to the Electoral Registration and the National Election Commission laws. Addressing that session on 1 March 2005, my Representative in Guinea-Bissau, João Bernardo Honwana, briefed its members on the political significance and practical implications of Security Council resolution 1580 (2004), especially with regard to the need to uphold the principles of justice and continue the fight against impunity.

7. In line with the Security Council's request in resolution 1580 (2004), I conducted a review of UNOGBIS aimed at adjusting its capacities to meet the requirements of its revised mandate. To that end, a United Nations multidisciplinary review mission visited Guinea-Bissau from 12 to 17 February 2005. Its broad objectives were to assess those aspects of the Office's mandate that could: foster political dialogue; ensure that credible elections take place later in 2005; enhance respect for the rule of law and promote transitional justice; enhance the overall administration of justice; develop local conflict resolution mechanisms; promote security sector reform; initiate programmes to eradicate small arms; and mobilize international support for Guinea-Bissau. The conclusions of the review mission greatly assisted me in setting out the recommendations contained in the present report.

III. Economic and social aspects

8. The economic situation in Guinea-Bissau improved slightly in 2004 with an increase in the country's GDP growth rate to 4.3 per cent, thanks, in particular, to a successful cashew harvest. In spite of this, the Government remains unable to pay the backlog of civil service arrears from 2003, domestic debt or salaries for January 2005.

9. Progress has however been made towards realizing better control of the public administration payroll. The preliminary results of the civil service census indicate a possible reduction of 8.3 per cent in the number of public sector employees. Probes into allegations of corruption are ongoing and the parliamentary inspectorate against corruption reported on 16 February that it had submitted to the Office of the Public

Prosecutor three cases of embezzlement from the State, totalling some $420,000 United States dollars.

10. The Government's progress in re-engaging the support of its development partners has continued. The Vice-President of the World Bank for the Africa region, Gobind Nankani, visited Guinea-Bissau on 24 January 2005, and the Bank's Managing Director, Shengman Zhang, visited the country on 22 February 2005. The Bank is considering an interim support strategy package to be submitted to its Board for a proposed $40 million credit. If approved, this credit would be devoted to energy, urban communications and community development projects in agriculture, health and education, and to direct budget support.

11. A mission from the International Monetary Fund (IMF) visited the country in the first half of March to negotiate a staff monitored programme with the national authorities. The programme could be transformed into an emergency post-conflict assistance programme, depending on the outcome of the donor round-table conference, which is to be held later this year.

12. Parliament's unanimous approval of the 2005 State budget on 4 February 2005 made possible the holding of the donor mini-conference, hosted by the Government of Portugal in Lisbon on 11 February 2005. Donors at the Lisbon meeting, jointly prepared by the Governments of Guinea-Bissau and Portugal, with the assistance of the United Nations Development Programme (UNDP), assessed the Government's macroeconomic performance as generally acceptable. The main objectives of the conference were to prepare for the full round-table conference scheduled for the last quarter of 2005 and to mobilize resources to cover the gap of approximately $40 million in the 2005 State budget. To that end, Portugal pledged €1 million. The Portuguese contributions and other pledges, including from the European Union, would be channelled through the UNDP-managed Emergency Economic Management Fund.

13. On 24 February 2005, an addendum to the strategy document and national indicative programme was signed between the European Commission and Guinea-Bissau allowing for the reallocation of the previously approved European Union grant of €9.5 million for budget support, administrative reform and the rehabilitation of social infrastructures.

14. The country is still coping with a locust invasion that started in December 2004, which has affected crops, including the important cashew cash crop. An early emergency response was provided with the assistance of the Libyan Arab Jamahiriya, Portugal and Senegal and the technical support of the Food and Agricultural Organization of the United Nations (FAO). Efforts to protect the 2005 cashew crop from being severely affected by the locust invasion will continue. A key priority in that regard is to formulate a medium-term action plan, including capacity-building programmes for relevant national institutions and support to natural disaster management structures, the implementation of which would require the continued support of the international community.

15. The health and education sectors continue to suffer from inadequate infrastructure and a shortage of financial and human resources. The school year is, however, proceeding normally, with an increase in teachers' salaries and a higher number of school inspections.

IV. Military and security aspects

16. The Chief of General Staff, General Tagme Na Waie, carried out a series sensitization meetings in all regions and barracks to promote the reconciliation the different military factions, although the members of the military hierarc removed from their posts after the 6 October 2004 mutiny have not yet resun active duty. They are in their residences and no restrictions have been placed their movements.

17. General Tagme visited his counterparts in Guinea-Conakry and Senegal February to discuss bilateral security issues and the modalities of cooperati between their respective armed forces. Both neighbouring countries provided armed forces of Guinea-Bissau with non-lethal military assistance.

18. UNOGBIS has continued to encourage the military leadership to initiate reform of the armed forces. In this connection, General Tagme has stated commitment to the reform process on several occasions. Three committees ha been set up within the General Staff to examine the Defence Act and milita regulations; retirement for members of the armed forces; and physical deployme of the armed forces. The committees started functioning in the last week of Februa in close cooperation with the Ministry of Defence. The armed forces are worki with the Secretariat of State for Public Administration on the registration of military personnel, with a view to obtaining accurate figures of military personnel active service. UNOGBIS and UNDP are finalizing preparations to establish a sma technical team to support efforts of the Government and the armed forces to pl and implement military reform.

19. At the 11 February 2005 donor mini-conference in Lisbon, Brazil committe itself to an initial contribution of $500,000 for security sector reform. As requeste by Security Council resolution 1580 (2004), UNDP is ready to channel these an any future funds through its existing Crisis Prevention and Recovery Thematic Tru Fund, specifically its Security Sector Reform and Transitional Justice service lin This arrangement will be similar to that of the Emergency Economic Managemen Fund, which has been providing a funding modality through UNDP to th Government to manage and finance its emergency budget. At the same time, th Netherlands has expressed interest in supporting a technical team for th formulation of the planning, methodology and programme formulation processes o the security sector, stressing the importance of including the Economic Communit of West African States (ECOWAS) in the overall review process.

20. At the request of the Government of Guinea-Bissau, I dispatched a fact-findin and project development mission to Guinea-Bissau from 7 to 11 March 2005 t examine the challenge posed by the proliferation of small arms and light weapons Working closely with the Government, UNOGBIS, the country team and relevan civil society bodies, the mission has established the operational and conceptua capacity-building needs for the national implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Smal Arms and Light Weapons. It is expected that the project proposals developed wit the mission's assistance will be supported by the Group of Interested States i Practical Disarmament Measures and by bilateral donors.

21. Meanwhile, the International Organization of Migration (IOM) has continued to provide administrative and financial management support to the demobilization

reinsertion and reintegration programme, which is in its last phase. To date, among the 7,182 beneficiaries, 2,406 have already been reintegrated and 2,031 are expected to be reintegrated by June 2005. Since the programme will not be able to complete all the reintegration activities, it is applying for an extension to December 2005.

22. Under the supervision of the UNDP-supported national mine action coordination authority, progress towards the elimination of mine-related risks continues. By February 2005, the two national mine-clearance non-governmental organizations, Humaid and Lutcam, had removed 2,545 anti-personnel mines, 64 anti-tank mines and 40,439 pieces of unexploded ordnance and had cleared 789,075 square metres. The European Union has pledged €600,000 to support Humaid. In 2005, demining activities are expected to focus on the capital, Bissau.

V. Human rights aspects

23. The current human rights situation in Guinea-Bissau, where people do not enjoy full economic and social rights, must be seen in the light of the country's precarious economic situation. The full realization of civil and political rights is also difficult owing to under-resourced administration of justice and dysfunctional penitentiary systems.

24. To promote respect of human rights, UNOGBIS continues to maintain contact with State institutions concerned with the issue and is seeking to secure assistance to strengthen infrastructure and provide equipment and training. The Office is also currently working with the Ministry of Defence, the military high command and civil society to organize a "train the trainers" session on the promotion of human rights, the prevention of conflict and respect for constitutional order. UNOGBIS is also working with various civil society groups to encourage the population to vote, in particular, women's groups and the Guinea-Bissau Human Rights League, which has been broadcasting programmes on local radio twice a week to inform the population of their human rights as well as carrying out sensitization programmes ahead of the elections. Furthermore, the Institute for Mother and Child, which was established by the Government in 2001, has held a national conference to explain in detail the terms of the Convention on the Elimination of All Forms of Discrimination against Women and the need for ratification of the optional protocol to the Convention.

VI. Observations and recommendations

25. Guinea-Bissau is still confronted with tremendous challenges. The State is still floundering and unable to effectively address the basic needs of the populace; military reform has still to be accomplished; a common vision has yet to be built among national stakeholders on how to foster peace, justice and reconciliation; and the old sources of conflict persist. However, in spite of those challenges, the country has improved noticeably since my last report.

26. The forthcoming presidential elections will put a formal end to the transition set in motion by the Political Transition Charter and will mark the full restoration of constitutional order in the country. In this sense, the elections ought to be a celebration of freedom of choice within the framework of a restored democratic

order and a demonstration of the political maturity of the politicians and the electorate of Guinea-Bissau. However, if poorly prepared and managed, the elections could be an additional source of tension and further instability.

27. I therefore urge national stakeholders to endeavour to create an environment conducive to peaceful, transparent, free and fair elections. A good beginning has been made by reaching consensus on the date of the elections.

28. For their part, UNOGBIS and the United Nations country team will continue to support the organization of the elections, concentrating on efforts to help lower tensions within and among political parties and to promote the adoption of a code of conduct by all political parties during the electoral period so as to contribute to the creation of a propitious political climate for a peaceful, fair and transparent poll.

29. The proposal to have the Parliament grant a blanket amnesty to all involved in military actions from 1980 to 2004 raises concerns of large segments of the population of Guinea-Bissau, including the civil society organizations of the country. My Representative in Guinea-Bissau has conveyed to the authorities the need to address this issue with a view to understanding the wider implications of such a measure on peace, security, justice and the rule of law.

30. In the light of the work that remains to be done to put the peacebuilding process in Guinea-Bissau on a steady forward-looking track, and taking into account the findings of the review mission, I recommend that, within the framework of its revised mandate as outlined in Security Council resolution 1580 (2004), UNOGBIS focus on the following activities:

(a) To promote political dialogue with a view to generating a self-sustainable process of consensus-building on critical national issues, including: electoral matters; the role of transitional justice approaches to consolidating peace and national reconciliation; promotion of the rule of law; and reform of the security sector. This would require UNOGBIS to, inter alia, continue to provide its good offices, mediation and facilitation services; establish appropriate coordination mechanisms with ECOWAS and the Community of Portuguese-Speaking Countries (CPLP); identify and mobilize national actors for peace; and ensure that Guinea-Bissau is included in regional initiatives undertaken by the United Nations Office for West Africa (UNOWA) and ECOWAS;

(b) To develop, as a first priority, stable civil-military relations through a profound reform of the armed forces as an institution subordinate to democratic civilian authority. In the area of security sector reform, a multifaceted process that requires joint efforts by the Government and the country's bilateral partners, particular attention should be paid to the proper and dignified reintegration of demobilized personnel into civilian life, including a holistic approach to the reform of law enforcement agencies and the organs involved in the administration of justice, as well as the revitalization of the economy so as to sustain whatever progress might result from security sector reform. The United Nations system, ECOWAS and CPLP will be called upon to play a critical role in support of this process. UNOGBIS will also actively promote the development of effective coordination mechanisms among the various partners, donors and national stakeholders;

(c) To promote implementation of the United Nations Programme of Action on Small Arms and Light Weapons as an urgent priority, in particular since the easy

availability and proliferation of illicit small arms and light weapons has become a matter of great concern and a serious threat, not only to human security and stability in Guinea-Bissau, but for the entire West African subregion. In this regard, the United Nations system will work closely with the relevant authorities of Guinea-Bissau and the recently established ECOWAS office in the country to follow up and implement the recommendations of the fact-finding and project development mission that visited Guinea-Bissau in early March;

(d) To advance, in light of the fact that resource mobilization for Guinea-Bissau is invariably tied to the restoration of much-needed donor confidence through measurable progress in the reform processes and consolidation of stability in the country, a comprehensive and integrated United Nations peacebuilding strategy, under UNOGBIS coordination and with the support of the United Nations country team as a whole, as an important instrument to boost resource mobilization efforts;

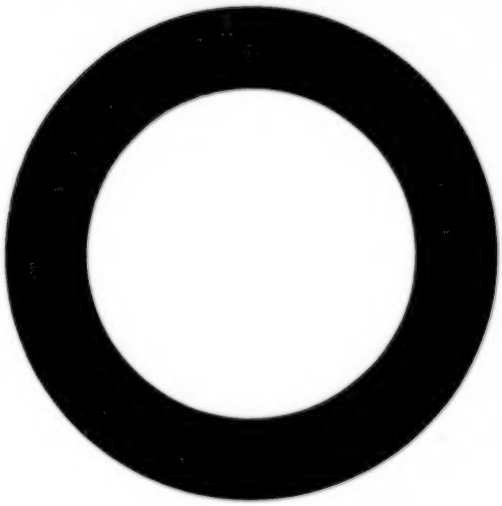
(e) To adjust the use of its available human and financial resources as well as to seek supplementary resources in order to respond more effectively to the requirements of its revised mandate and undertake the activities described above. Specifically, some of the existing posts may need to be adjusted and new posts created, including (i) a Political Affairs Officer to assist with the increased workload, namely, liaison with ECOWAS and CPLP, facilitation of the process of political dialogue and liaison with donors and other international partners; (ii) a senior national officer to liaise with national actors; (iii) a Finance Officer from the United Nations Volunteers to help ensure the effective and efficient financial management of UNOGBIS; and (iv) a translator/interpreter in English/Portuguese. UNOGBIS will also require additional funding for travel to the subregion and throughout the country, outside of the capital, Bissau, and more frequent consultations with the Security Council and subregional organizations. Finally, the training line item should be reinserted in the UNOGBIS budget, both for languages, especially Portuguese and Creole, as well as for the specialized training of selected staff members in conflict management and facilitation skills.

31. The Security Council's agreement on the above recommendations would enable UNOGBIS to step up its efforts, working closely with the United Nations country team, towards integrating development and peace and security agendas within a cohesive peacebuilding strategy.

32. While the primary responsibility for completing the political transition, managing conflict, reforming the institutions and relaunching the economy of the country rests with the Government and people of Guinea-Bissau, I call on the international community to remain attentive and generous in its support for the country's efforts towards peace and progress. In this connection, I wish to commend the efforts of those development partners of Guinea-Bissau whose engagement and assistance have helped move the country along the path of progress in the period under review.

33. I also welcome the extension of the mandate of the Ad Hoc Advisory Group on Guinea-Bissau of the Economic and Social Council and trust that it will continue to play the constructive role it has played to date in supporting the country to address its pressing short and longer-term development goals and in the mobilization of international support for Guinea-Bissau.

34. Finally I should like to pay tribute to the staff of UNOGBIS, led by my Representative in Guinea-Bissau, João Bernardo Honwana, and to the entire United Nations country team for their dedicated contribution to Guinea-Bissau's peacebuilding efforts.



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Letter dated 16 March 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to the Accra III Agreement on Côte d'Ivoire, concluded on 30 July 2004 in Accra, to the statement by the President of the Security Council on 5 August 2004 (S/PRST/2004/29) and to my previous letters transmitting to the President of the Security Council the reports of the Tripartite Monitoring Group established under the Accra III Agreement.

Please find attached the eleventh and twelfth reports of the Tripartite Monitoring Group, covering the periods from 17 January to 14 February and from 15 to 28 February 2005 (see annexes).

I should be grateful if you would bring the present letter and its annexes to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex I

[Original: English]

Implementation of the Accra III Agreement

Eleventh report of the Tripartite Monitoring Group

Covering the period from 17 January to 14 February 2005

I. Introduction

1. The present report is submitted pursuant to the Accra III Agreement of 30 July 2004, which established the Tripartite Monitoring Group and requested it to report on progress made towards the implementation of the Agreement to the Chairman of ECOWAS, the Chairperson of the African Union and the Secretary-General of the United Nations. This report covers major developments between 17 January and 14 February 2005. Unlike the previous reports, the coverage of this report has been extended to approximately a month to enable a full perspective of developments in the peace process, especially during the ECOWAS and AU Summits and the immediate follow-up of President Mbeki's mission up until mid-February 2005.

II. Overview

2. The military and security situation in the country was generally calm but still tense and fragile. There is a general feeling of unease over the apparent lack of significant progress in the peace process, the increasing incidence of crime in the cities and the large urban areas and occasional rumours of a coup d'etat. The expectations over the progress in the peace process were held in abeyance as both the ECOWAS Summit (Accra, 19 January 2005) and the AU Summit (Abuja, 30-31 January 2005) agreed to await the further outcome of the Mbeki facilitation mission. The impact of the Security Council resolution 1572 (2004) remained an undercurrent in the reactions among the Ivorian political class. They maintained their contact with President Mbeki. The political actors also continued to make moves in anticipation of the elections scheduled for October 2005. There was, therefore, no end to the political campaigns launched by all the major political parties to position themselves to win electoral support. The Forces Nouvelles, on the other hand, had announced their intent to establish autonomous institutions in the north, further reinforcing the practical division of the country in two. Much emphasis continued, however, to be placed on the consultations with the Forces Nouvelles to encourage them to return to Government and to secure their political will to engage in the start-up of the DDR. In that connection, there has been some slight progress but much remains to be done.

III. Developments in the peace process

ECOWAS Summit (Accra, 19 January 2005) and African Union Summit (Abuja, 30-31 January 2005)

3. These two summit events constitute a framework to assess progress being made under the auspices of President Mbeki. Both summits provided opportunities for some focus on concerns over the protracted stalemate and what appeared to be an unwillingness on the part of the Ivorian political actors to resolve the key issues in the Mbeki Plan of Action, in particular the return to the full functioning of the Government, article 35 and DDR, leading to reunification and the elections scheduled for October 2005.

4. The ECOWAS Summit reaffirmed "their confidence in the Linas-Marcoussis and Accra III Agreements as the only framework for the resolution of the crisis in the country. To this effect, they expressed support for the initiative of the Security Council and the African Union to restore peace to the country".

5. The AU Assembly of Heads of State: welcomed the decision taken by the 23rd Meeting of the Peace and Security Council held in Libreville on 10 January 2005; commended President Thabo Mbeki for the efforts exerted on behalf of the African Union and encouraged him to continue these efforts; urged the Ivorian parties to cooperate fully with President Thabo Mbeki; requested the Security Council to coordinate closely its efforts with the African Union to facilitate the speedy resolution of the crisis in Côte d'Ivoire; expressed its satisfaction at the continued involvement in the effort aimed at resolving the crisis; and encouraged the ECOWAS countries to pursue their efforts in cooperation with the African Union.

African Union Facilitation Mission

6. President Mbeki invited the major Ivorian political leaders to Pretoria from 26 to 28 January 2005 for continuing consultations on his Action Plan. He focused principally on the issues related to the functioning of the Government of National Reconciliation, the amendment to article 35 of the Constitution and the DDR. On the basis on these consultations, he submitted his report to the AU Summit where he requested more time to continue his consultations. He also proposed that in view of the progress he was making, it would be well indicated for the Security Council to postpone the effective application of individual sanctions as had already been proposed by the AU Peace and Security Council at its Libreville meeting.

7. Following the AU Summit, President Mbeki dispatched his envoys to meet President Gbagbo, Prime Minister Seydou Diarra in Abidjan, and in particular Mr. Guillaume Soro in Bouake. These consultations were aimed at bringing the Forces Nouvelles back into government and jump-starting the programme of the DDR. Thus far, the Mbeki mission through its officials working together with UNOCI and other stakeholders, have embarked on a series of consultations with the Ivorian political leaders particularly the Forces Nouvelles on the various cluster of issues in the President Mbeki's road map.

8. The state of the consultations are set out in the following paragraphs.

Legislative programme

9. Attached to this report is the synoptic table indicating the status of the texts of legislation which have been laid before the National Assembly.

10. President Laurent Gbagbo and the FPI have indicated that there had been enough progress on the passage of most of the laws in particular article 35 to enable an immediate implementation of the DDR programme leading to the redeployment of administration throughout the country, territorial reunification and elections in October 2005. The G-7 Marcoussistes have petitioned President Gbagbo and expressed reservations over the passage of some of the laws which, in their view, did not conform to the letter and spirit of the Linas-Marcoussis Agreement. These are:

- Legislation on the composition, organization and functions of the Independent Electoral Commission. *This in their view does not guarantee the independence of the Commission.*
- Legislation on the establishment, organization and functions of the National Human Rights Commission in Côte d'Ivoire. *This in their view excludes representatives of the signatories of the Linas-Marcoussis Agreement which stipulates explicitly that the Commission will be composed of representatives of all the political forces.*
- Legislation relating to the identification of persons. *The content introduces new requirements in the identification process which discriminate against the origins of an individual.*
- Legislation on the Ivorian Nationality Code. *This discriminates against certain persons whose interests were covered under the provisions of a previous law.*
- Legislation on the public funding of political parties and groups and electoral campaigns. *This does not make provision for transitional arrangements and thus excludes the funding of certain political parties.*
- Legislation relating to the compensation and rehabilitation of victims of war. *This does not take into account all the cases identified by the National Commission on Human Rights.*
- Legislation on the regime governing the radio and the television media. *This does not guarantee the neutrality and impartiality of this important organ of the public service.*
- Legislation relating to the establishment of the National Identification Commission. *This Commission has not been given the necessary autonomy to control the identification process nor the establishment of voters' cards.*

11. Against the above position of the G-7, the supporters of President Gbagbo point out that the G-7, for whatever reason, is playing for time with delay tactics. They state, for example, that the said G-7 parliamentarians, who are in the majority in the parliament, actually voted for some of the laws about which they are now complaining, and in some cases, abstained from voting.

12. Before receiving a copy of the G-7 petition, the Monitoring Committee has already embarked on a review of three of the texts of legislation: Nationality Code with its concomitant legislation on naturalisation and the legislation on the

Independent Electoral Commission. The Committee has delegated some members to discuss these reviews with President Gbagbo and the Speaker of the National Assembly, with the aim of exploring possible ways of accommodating any relevant changes.

Disarmament, demobilization and reinsertion

13. Prime Minister Seydou Diarra visited Bouake on 5 February 2005 and discussed with the leadership of the Forces Nouvelles, key issues related to the functioning of the Government of National Reconciliation, the resumption of Forces Nouvelles' participation in the DDR process and the start-up of the DDR. On DDR, the Prime Minister indicated that he would revise the composition of the NCDDR in response to the concerns of the Forces Nouvelles over a better representation of the Forces Nouvelles within NCDDR and matters pertaining to the management of the Commission. He requested them to submit a list of some six representatives to be included in the Commission.

14. He also agreed to a request by the Forces Nouvelles to recruit their own bodyguards for their close protection in Abidjan, but, this, on the understanding that these bodyguards would come from those military elements who were formally members of FANCI and qualified under the Amnesty Law and the relevant decision of the Ministry of Defence to be reintegrated into the future restructured Armed Forces of the Republic. The technical modalities involved in these arrangements were yet to be worked out.

15. Elsewhere, on DDR, weekly meetings had been convened by UNOCI and attended by officials of NCDDR, United Nations agencies (WFP, UNHCR, UNICEF), Save The Children UK, key partners and donors (France, Japan). The objective was to exchange information, views, strategic thinking and to further coordinate action in response to the Government's needs in implementing the DDR programme. These meetings had also resulted in coordinating action to facilitate the Mbeki mission.

16. In that connection, a mission composed of President Mbeki's envoys and officials from UNOCI, the National Commission for Disarmament, Demobilization and Reinsertion (NCDDR), the World Bank, the Licorne French Forces has had discussions twice with the Forces Nouvelles (FN) in Bouaké. The meetings were attended by the Secretary-General Guillaume Soro and key members of the FN.

17. The aim of these meetings was to resume collaboration on the commencement of the DDR programme as stipulated in President Mbeki's road map. The meeting's agenda included three key issues: (a) Security of FN Ministers whilst in Abidjan; (b) Irreversibility of the ceasefire and monitoring of the Zone of confidence; and (c) the National DDR programme and related security implications during implementation.

18. Overall, these negotiation efforts have opened the way to a resumption of discussions on the DDR. The following positive developments could be highlighted:

- The FN have agreed to allow inspections of all DDR sites in the zones under their control, prior to their rehabilitation.

- The FN, with participation of the NCDDR and other partners, will discuss the National DDR programme in order to better define its flowchart and components.

- One of the critical issues which must be addressed should be the restructuring of the National Armed Forces as recommended by the Linas-Marcoussis Accord.

- In the meantime, the FN have accepted to resume collaboration with the NCDDR.

- On the security of FN Ministers in Abidjan, FN has agreed to accept the assurances given them by the Prime Minister, as indicated above.

Children associated with armed forces and groups

19. During one of the UNOCI coordination meetings, UNICEF briefed participants on their field visits to the West of the country in Man (FN-controlled) and Guiglo (Government-controlled). Following negotiations with the FN Chief of Military Staff a new framework on child soldiers' demobilization was established for the Western region. The implementation schedule was as follows: (a) from the **end of January to 12 February 2005**, the rehabilitation of one transit centre fully equipped; establishment of a joint military and civilian screening team; preparation of training material and establishment of a team of social workers; (b) **from 14 to 18 February 2005**, training of screening teams on prevention, demobilization and reintegration of former child soldiers and screening methods; (c) **from 21 February to 21 March 2005**, screening will take place in military barracks and check points in order to identify child soldiers and proceed with their demobilization. The FN military commander will be launching this process officially at the end of the screening training.

20. In the Government-controlled area, several agencies and government institutions (Ministry of Solidarity; Ministry of Justice; NCDDR) involved in child protection will constitute a joint "front" aimed at reducing and possibly stopping the involvement of children in the various irregular armed and non-armed groups (militia, local defence groups). It is envisaged that advocacy campaigns will take place at different levels, including national entities such as the Ministries of Defence and of Internal Security, and at the regional level, such as local authorities and communities. In order to finalize the advocacy strategy, the institutions involved will hold a two-day workshop. Agencies involved include UNICEF, Save-the-Children UK, Save-the-Children Sweden, International Rescue Committee, UNHCR, OCHA and UNOCI. A field visit to Guiglo will take place before the end of February with the aim of discussing these issues with local authorities and the Defence and Security Forces.

Armed groups and militias

21. The NCDDR had resumed discussions with the armed militias in the Western region of Guiglo. These contacts were interrupted after the events of November 2004. The main armed group concerned is the Front de Liberation du Grand-Ouest (FLGO) with an estimated 7000 combatants. The discussions pertained to their cantonment and eventually their disarmament. FLGO had recently reiterated its commitment to DDR, which could be explained by the Front's difficulties in

sustaining itself as a movement trying to avoid disintegration into small and rival groups.

IV. Conclusion

22. In spite of considerable pessimism engendered by the continued recalcitrance of some key actors in the Ivorian political drama, it is however discernible that the peace process is under way, albeit sluggishly. The significant and hopeful sign, at this stage, has been the close consultations, which President Mbeki's mission has begun to generate between President Gbagbo, the Prime Minister and other major stakeholders, on the way forward. If this momentum is sustained, it should be possible to see the return of the Forces Nouvelles to government and hopefully some movement in the start-up of the DDR. As time is clearly of the essence, vis-à-vis the crucial elections of October 2005, all international hands should now be on deck to secure this objective.

(*Signed on behalf of the Group*) Ambassador Raph Uwechue
Chairman

14 February 2005

Enclosure

[Original: English and French]

Synoptic table

Status of progress of legislative texts envisaged under the Linas-Marcoussis Agreement

Legislation	Adopted by the Government	Submitted to the National Assembly	Adopted in Committee	Passed by the National Assembly	Promulgated
1) Legislation on the amendment to Article 35 of the Constitution of 1 August 2004	Yes	Yes	Yes	Yes 17/12/04	No
2) Legislation on the Ivorian Nationality Code as amended by Law No 72-852 of 21 December 1972	Yes	Yes	Yes	Yes 17/12/04	Yes 30/12/04*
3) Legislation on the amendment to article 26 of the Land tenure regime	Yes	Yes	Yes	Yes 28/07/04	Yes 30/12/04*
4) Legislation on the establishment, organization and functions of the National Human Rights Commission in Côte d'Ivoire	Yes	Yes	Yes	Yes 03/04/04	Yes 30/12/04*
5) Legislation relating to the disclosure of the personal assets of the Head of State	Yes	Yes	Yes	Yes 28/07/04	Yes 30/12/04*
6) Legislation on the public funding of political parties and groups and electoral campaigns	Yes	Yes	Yes	Yes 28/07/04	Yes 30/12/04*
7) Legislation authorizing the President of the Republic to ratify the additional protocol A/SP1/6/89 amending and completing the provisions of article VII of the protocol, signed in Ouagadougou on 30 June 1989, concerning the free circulation of persons, the right of residence and settlement.*	Yes	Yes	Yes	Yes 27/07/04	Yes 30/12/04*

* Journal Officiel spécial N° 2 du 30 décembre 2004

Legislation	Adopted by the Government	Submitted to the National Assembly	Adopted in Committee	Passed by the National Assembly	Promulgated
8) Legislation authorizing the President of the Republic to ratify the additional protocol A/SP2/5/90 relating to the implementation of the third step (right of settlement) of the protocol concerning the free circulation of persons, the right of residence and settlement signed in Banjul on 29 May 1990	Yes	Yes	Yes	No	No
9) Legislation on Amnesty	Yes	Yes	Yes	Yes 06/08/03	Yes 30/12/04*
10) Legislation relating to the Identification of persons and Residence of foreign nationals in Cote d'Ivoire	Yes	Yes	No	Yes 23/04/04	Yes 30/12/04*
11) Legislation on the composition, organization and functions of the Independent Electoral Commission	Yes	Yes	Yes	Yes 09/12/04	Yes 30/12/04*
12) Legislation setting the regime governing the Radio and Television media	Yes	Yes	Yes	Yes 09/12/04	No
13) Legislation on the regime governing the Press	Yes	Yes	Yes	Yes 09/12/04	Yes 30/12/04*
14) Legislation on the Status of the opposition parties	No	No	No	No	No
15) Legislation on the disclosure of the personal assets of elected personalities	No	No	No	No	No
16) Legislation against illegal enrichment	No	No	No	No	No
17) Legislation on naturalization	Yes	Yes	Yes	Yes 17/12/04	Yes 30/12/04*
18) Legislation on the organization of the referendum	Yes	Yes	Yes	No	No
19) Legislation relating to the Compensation and rehabilitation of victims of war	Yes	Yes	Yes		

DECREES

Draft decree	Adopted by the Government
1) Decree on the establishment, organization, functions of the National Identification Commission	Yes on 6 January 2004
2) Decree on the acquisition and format of the National identity card	Yes on 7 January 2004
3) Decree relating to the amendment of the decree on the establishment of the National Identification Office	Yes in January 2004
4) Decree relating to the appointment of the Chairman of the National Identification Commission	Yes on 29 January 2004
5) Decree relating to the appointment of the Secretary General of the National Identification Commission	Yes on 29 January 2004
6) Decree relating to the establishment of the Inter-ministerial Commission on the Media and its technical Secretariat	Yes on 19 August 2003

Annex II

[Original: English]

Implementation of the Accra III Agreement

Twelfth report of the Tripartite Monitoring Group

Covering the period from 15 to 28 February 2005

I. Introduction

1. The present report is prepared pursuant to the Accra III Agreement of 30 July 2004, which established the Tripartite Monitoring Group with a mandate to follow the progress made towards the implementation of the Agreement and to submit fortnightly reports on major developments in the peace process in Côte d'Ivoire. This twelfth report covers the period from 15 to 28 February 2005.

II. Overview

2. During the period under review, the tensions in the general security situation deteriorated with serious threats posed by intermittent troop movements by both belligerent forces and by skirmishes provoked by organized armed groups in the west. There have also been reports of an increasing number of ethnic clashes in the west of the country, harassment of civilians and humanitarian aid workers by military forces in the west and north, and a rise in organized crime throughout the country, particularly in Abidjan. Matters came to a head on 28 February 2005, when in the locality of Logouale in the west of Côte d'Ivoire erupted a confrontation between a pro-government militia group named MILOCI (Mouvement Ivoirien de Liberation de Côte d'Ivoire) and the impartial forces. Their mission was to "liberate the area from the control of the rebels". This violation of the Zone of Confidence led to the arrest of some 87 individuals by UNOCI troops with one UNOCI military personnel critically wounded. Some 28 others including 5 MEFN were reported dead. Details of this are given later in this report.

3. The political situation showed no marked progress. The stalemate persisted with the Forces Nouvelles refusing to return to the Government and to participate in the DDR process unless certain security arrangements were put in place. On 22 February 2004, President Gbagbo made a public statement over the role of the impartial forces in which he imputed the latter's unwillingness or inability to disarm the Forces Nouvelles and therefore called for their withdrawal from Côte d'Ivoire. In the same statement, he called the Linas-Marcoussis Agreement "a failure" and also reiterated his determination to put the amendment to Article 35 on eligibility to a referendum.

4. On the economic front, the business cycle is at its lowest point since the crisis erupted in September 2002. The events of last November have exacted yet a heavy toll on the economy: 30 per cent of small and medium enterprises have been destroyed or severely damaged or closed down, entailing some 30,000 job losses. Internal and external debt arrears amount now to more than the equivalent of one-year's fiscal revenue.

III. Developments in the peace process

Legislative reforms

5. The Monitoring Committee has continued to link efforts with the Mbeki mission in the review of legislative texts which were perceived as not in conformity with the letter and spirit of the Linas-Marcoussis Agreement. Two legal experts, commissioned by President Mbeki, visited Abidjan from 20 to 23 February 2005 to exchange views and information on matters relating to the contested legislative texts.

6. The Monitoring Committee continued its review of legislative reforms taking into account the petition submitted by the G-7 on the matter. The Committee met with the Directorate of the G-7 on 24 February 2005 to discuss the state of progress in the review of certain texts of legislation and Presidential decrees. They stressed that priority should be given to putting in place all measures needed to advance the process towards the holding of free, fair and transparent elections. They appealed to the Monitoring Committee to intervene in cooperation with the Mbeki Mission to forge a national consensus on the pertinent issues under contention. They underscored the issues of the Independent Electoral Commission, the Nationality Code, Identification of Persons and the Composition of the Constitutional Council (which is vested with powers to determine eligibility of candidates, validate election results and adjudicate in electoral disputes). They also raised their concern for the personal safety of political leaders, the security of their homes and of the political party premises. All these matters have been discussed and are to be brought to the attention of the Mbeki mission, expected in Abidjan sometime in the second week of March 2005. Attached is an updated version of the matrix on the Legislative texts envisaged under the Linas-Marcoussis Agreement.

Military situation

7. During the period under review, both FANCI and military elements of Forces Nouvelles have occasionally violated the zone of confidence. On 20 February, Licorne Forces intercepted a vehicle transporting armed elements of the Forces Nouvelles in the zone of confidence. Arms were seized and one element arrested and handed over to UNOCI.

8. On 28 February 2005, an armed group attacked a Forces Nouvelles checkpoint at Logouale, north of the zone of confidence in the West of the country, after bypassing UNOCI positions in the zone of confidence. The armed group was comprised of young militants, including a few children. In the skirmishes, five elements of the Forces Nouvelles and 23 other civilians were killed. Some 87 of the young assailants were held in custody by UNOCI peacekeepers in Man for their own safety to be handed over to Government authorities to face the due process of the law. The Forces Nouvelles, who denounced this incident as another violation of the ceasefire, have asked for an inquiry and announced their decision to suspend their participation in the ongoing mediation process "in order to concentrate their efforts on the defence and security of the zones under their control and their population".

Disarmament, demobilization and reinsertion

9. In the continuing efforts to advance in the dialogue with the Forces Nouvelles on DDR, the South African mediators, UNOCI, UNDP, the World Bank and

NCDDR officials have visited DDR sites in FN-controlled areas on 25 February 2005. Out of the three sites visited, two have already been rehabilitated in 2004 and the third one has suffered serious damages following the events of last November and would need to be rebuilt. Following this mission, the Forces Nouvelles announced their intention to hold an internal seminar in Bouake to discuss their position regarding the National DDR Programme and its modalities of implementation in their zone. In addition, the National Commission on DDR, with the support of UNOCI, is considering the possibility of organizing a workshop with the Forces Nouvelles and the Defence and Security Forces, aimed at finalizing and formalizing the overall National Programme on DDR, including the component on the restructuring of the army. The Prime Minister has also agreed to revise the composition and the structure of the NCDDR after taking into account the representation of the Forces Nouvelles within the National Commission and the management of the Commission itself. Unfortunately, with the recent events of 28 February 2005 in the West and the decision of the Forces Nouvelles to suspend their participation in the ongoing mediation efforts, it is most likely that these planned activities could be delayed and thus affect the start-up of the DDR process.

10. In addition to existing political and security constraints, securing adequate funding is still of the highest essence. Out of a total estimated (revised) cost of the DDR programme of $150 million, the World Bank has pledged about $85 million (still to be approved by their board), other donors have provided through UNDP grants to the tune of $12 million (France, UNDP, EU, Japan, Belgium), the Government has already disbursed $12 million and has pledged an amount of $20 million in 2005. The DDR budget shortfall is estimated at some $21 million, a figure likely to increase if the Government continues to be faced with the current dire financial situation.

11. WFP have started discussions with the NCDDR in order to share their technical expertise and know-how on food related issues of the DDR process. IRCC in collaboration with UNICEF have started the tracing and the regrouping of child ex-combatants. They are also working on the repatriation of some foreign child ex-combatants to their home countries.

12. On 19 February 2005, there was the launching in Man of the Prevention, Demobilization and Reintegration (PDR) process of former child members of armed groups and forces in the western region of Côte d'Ivoire. UNICEF organized the ceremony in collaboration with La Maison de l'Enfance de Bouaké and the Forces Nouvelles. The main participants recalled the importance of protecting children during times of conflict, in recognition of their right to education and safety.

Armed groups and militias

13. A network of patriotic organizations, student organizations and militias continued their militant activities in Abidjan with negative implications for the security situation in the capital. In view of the activities of militias and other armed groups in other major cities and with the growing risk of confrontation between these groups and the local population, the Prime Minister has established a working group composed of the FANCI Chief of Staff, the Commanders of the National Gendarmerie and Police, the President of the CNDDR, the UNOCI Force Commander and the Civilian Police Commissioner. During their first meeting on 15 February 2005, a plan of action was drafted to disband and disarm these militia

groups as part of the DDR process and in accordance with the Accra III Agreement. It has also been decided to devise a legal framework to regulate the work of private security companies.

Humanitarian situation

14. The prevailing insecurity, the political impasse, the continuous violation of human rights and the severe contraction of the economy have led to a serious and precarious humanitarian situation. More than 700,000 children are still not going to school; about 60 per cent of health infrastructures are still dysfunctional; 500,000 to 700,000 are still living as internally displaced persons (IDPs) with insufficient support and protection from local authorities and the international community. Prostitution among young women, especially the IDPs, has increased due to the high level of unemployment and poverty. Inter and intra-community tensions of nationality and ethnic origins are provoking clashes in several areas of the country, particularly in the West. In 2005, it was expected that some 500,000 to 600,000 children would attend school in the North with the support of the Government. However, since the events of last November and despite pressures from the international community, the Government says it is not able in the existing circumstances to organize exams in the rebel-controlled North and to restore schooling. The Minister for Education has clearly stated that the Government would not be involved in organizing school exams, nor would it support the new school year until the country is reunified.

Acts of the Forces Nouvelles

15. In the reporting period, the Forces Nouvelles have proceeded to create what are apparent instruments of state. A Military Council to govern areas under Forces Nouvelles control has been established. Five additional military zones have been created, to bring the total number of zones in Forces Nouvelles areas to eleven, and military commanders have been appointed for these. The Forces Nouvelles, in these acts of reorganization, have also created a Police Academy and have begun recruitment for a Police Force. A bank has also been set up, to manage finances in Bouake. These creeping and defiant moves by the Forces Nouvelles towards the "autonomization" of the zones under their control is reinforcing piecemeal the de facto partitioning of the country.

IV. Conclusion

16. The recent upsurge in clashes between the militia groups and elements of the Forces Nouvelles can only lead to retarding complications in the peace process. The month of March will be a defining period, as the contentious draft law on referenda will be re-presented to the National Assembly, the Presidential decree banning all demonstrations will expire on 13 March 2005, and the current mandate of UNOCI will come for review and renewal. The African Union mandated Mbeki mission continues to make impressive and committed efforts to tackle the persisting impasse and point a realistic way forward. However, in view of the evident race against time for the elections of October 2005 and given the enormity of the tasks to be accomplished, we can only emphasize the necessity for effective solutions to be found to ensure that the elections hold as scheduled. Already, with conflicting claims as to who will hold the levers of power in the absence of the anticipated

elections, everything should be done to ensure that such an explosive eventuality does not occur.

(*Signed on behalf of the Group*) Ambassador Raph **Uwechue**
Chairman

28 February 2005

Enclosure

[Original: French]

Evaluation de la prise de textes legislatifs et reglement aires

Presentation par chapitre

I – OBJECTIFS DE L'ACCORD DE MARCOUSSIS

- **Préserver l'Intégrité Territoriale de la Côte d'Ivoire**
- **Respecter les Institutions de la Côte d'Ivoire**
- **Restaurer l'Autorité de l'Etat**
- **Réaliser des élections libres et transparentes**

II - INSTRUMENTS POUR ATTEINDRE LES OBJECTIFS DE L'ACCORD

Chapitre I.	Nationalité, Identité, Condition des Etrangers
Chapitre II.	Régime Electoral
Chapitre III.	Eligibilité à la Présidence de la République
Chapitre IV.	Régime Foncier
Chapitre V.	Médias
Chapitre VI.	Droits et Libertés de la Personne Humaine
Chapitre VII.	Regroupement, Désarmement, Démobilisation
Chapitre VIII.	Redressement Economique et Nécessité de Cohésion Sociale

III – EVALUATION DE LA PRISE DE TEXTES LEGISLATIFS ET REGLEMENTAIRES

Point de la prise des textes législatifs et réglementaires au 27/01/2005

Chapitre	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
I - NATIONALITE, IDENTITE, CONDITIONS DES ETRANGERS	Lois (6)	1	Projet de loi modifiant et complétant la loi n° 61-415 du 14 décembre 1961 portant code de la nationalité ivoirienne telle que modifiée par la loi n° 72-852 du 21 décembre 1972	Adopté le 17 décembre 2004			Ministère d'Etat, Ministère de la Justice	Loi N° 2004-662 du 17 décembre 2004
		2	Projet de loi portant dispositions spéciales en matière de naturalisation	Adopté le 17 décembre 2004			Ministère d'Etat, Ministère de la Justice	Loi N° 2004-663 du 17 décembre 2004
		3	Loi portant modification de la loi n°2002-03 du 3 janvier 2002 relative à l'identification des personnes et au séjour des étrangers en Côte d'ivoire et portant abrogation de la loi N° 98-448 du 4 août 1998	Adopté le 23 avril 2004			Ministère d'Etat, Ministère de l'Administration du Territoire	Loi N° 2004-303 du 03 mai 2004
		4	Projet de loi modifiant la Loi N° 2004-303 du 03 mai 2004 portant modification de la loi n°2002-03 du 3 janvier 2002 relative à l'identification des personnes et au séjour des étrangers en Côte d'ivoire et portant abrogation de la loi N° 98-448 du 4 août 1998	Examen en commission			Ministère d'Etat, Ministère de l'Administration du Territoire	• Adopté en CM • Transmis à l'Assemblée Nationale le 24/09/04 • En examen à l'Assemblée Nationale

Point de la mise des textes législatifs et réglementaires au 27/01/2005

Chapitres	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	**Signature** du Décret	**Signature** de l'Arrêté	Ministère	Observations
I – NATIONALITE, IDENTITE, CONDITIONS DES ETRANGERS	Lois (6) (suite)	5	**Projet de loi autorisant le Président de la République à ratifier le protocole additionnel A/SP2/5/90 relatif à l'exécution de la troisième étape (*droit d'établissement*) du protocole sur la libre circulation des personnes, le droit de résidence et d'établissement, signé à Banjul le 29 mai 1990**	Examen en commission			*Ministère d'Etat, Ministère des Affaires Etrangères*	- Adopté en CM du 2&7/11/03 - Transmis à l'Assemblée Nationale le 11/12/03 - En examen à l'Assemblée Nationale
		6	**Loi autorisant le Président de la République à ratifier le protocole additionnel A/SP1/6/89 modifiant et complétant les dispositions de l'article 7 du protocole sur la libre circulation des personnes, le droit de résidence et établissement, signé à Ouagadougou le 30 juin 1989.**	Adopté le 27 juillet 2004			**Ministère d'Etat, Ministère des Affaires Etrangères**	- Loi N° 2004-411 du 14 août 2004
	Décrets (11)	1	**Projet de décret portant modification du décret n° 2002-331 du 13 juin 2002 portant conditions d'établissement, d'obtention et de forme de la Carte Nationale d'Identité**				**Ministère d'Etat, Ministère de l'Administration du Territoire**	- Adopté après modif. en CM du 07/01/04 - En attente de la copie du Décret certifiée conforme par le SGG
		2	**Décret portant création, organisation, attributions et fonctionnement de la Commission Nationale de Supervision d'Identification (CNSI)**		N° 2004-05 du 06 janv. 2004		*Ministère d'Etat, Ministère de l'Administration du Territoire*	
		3	**Projet de décret portant nomination du Président de la Commission Nationale de Supervision d'Identification**				**Ministère d'Etat, Ministère de l'Administration du Territoire**	- Adopté en CM du 29/01/04 - En attente de la copie du Décret certifiée conforme par le SGG

Point de la revue des textes législatifs et réglementaires au 27/01/2005

Chapitre	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
I – NATIONALITE, IDENTITE, CONDITIONS DES ETRANGERS	Décrets (11) suite	4	Projet de décret portant nomination du Secrétaire Général de la Commission Nationale de Supervision de l'Identification				Ministère d'Etat, Ministère de l'Administration du Territoire	- Adopté en CM du 29/01/04 - En attente de la copie du Décret certifiée conforme par le SGG
		5	Projet de décret portant modification du décret n° 2001-105 du 15 février 2001 portant création de l'Office National d'Identification (ONI)				Ministère d'Etat, Ministère de l'Administration du Territoire	- Adopté après modif. en CM du 15/01/04 - En attente de la copie du Décret certifiée conforme par le SGG
		6	Projet de décret portant conditions d'établissement et d'obtention des titres de séjour abrogeant et remplaçant le décret n° 2002-332 du 11 juin 2002				Ministère d'Etat, Ministère de l'Administration du Territoire	En attente de l'adoption de la nouvelle loi sur l'identification
		7	Projet de décret portant modification du décret n° 2002-121 du 27 février 2002, fixant la taxe relative à la délivrance des titres de séjour				Ministère d'Etat, Ministère de l'Administration du Territoire	En attente de l'adoption de la nouvelle loi sur l'identification

Point de la mise des textes Matrimoniés et réglementaires au 27/01/2004

Chapitre	Texte		Chronogramme				
			Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
I – NATIONALITE, IDENTITE, CONDITIONS DES ETRANGERS							
Décrets (11) suite		8 Projet de décret portant ratification du protocole additionnel A/SP2/5/90 relatif à l'extension de la troisième étape (droit d'établissement) du protocole sur la libre circulation des personnes, le droit de résidence et d'établissement, signé à Banjul le 29 mai 1990				Ministère d'Etat, Ministre des Affaires Etrangères	En attente de l'adoption de la loi par l'Assemblée Nationale
		9 Projet de décret portant publication de protocole additionnel A/SP2/5/90 relatif à l'extension de la troisième étape (droit d'établissement) du protocole sur la libre circulation des personnes, le droit de résidence et d'établissement, signé à Banjul le 29 mai 1990				Ministère d'Etat, Ministre des Affaires Etrangères	En attente de l'adoption de la loi par l'Assemblée Nationale
		10 Projet de décret portant ratification du protocole additionnel A/SP1/6/89 modifiant et complétant les dispositions de l'article 7 du protocole sur la libre circulation des personnes, le droit de résidence et établissement, signé à Ouagadougou le 30 juin 1989				Ministère d'Etat, Ministre des Affaires Etrangères	En attente de la promulgation de la loi
		11 Projet de décret portant publication du protocole additionnel A/SP1/6/89 modifiant et complétant les dispositions de l'article 7 du protocole sur la libre circulation des personnes, le droit de résidence et établissement, signé à Ouagadougou le 30 juin 1989				Ministère d'Etat, Ministre des Affaires Etrangères	En attente de la promulgation de la loi

Suite de la note des tables législatives et réglementaires de S/2001/XXX

Chapitres	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
I – NATIONALITE, IDENTITE, CONDITIONS DES ETRANGERS	**Arrêtés (2)**	1	Arrêté portant nomination des membres de la Commission Nationale de Supervision de l'Identification			Arrêté N°112/ MEMAT/ CAB Du 05 février 2004	Ministère d'Etat, Ministère de l'Administration du Territoire	
		2	**Arrêté portant création d'un comité interministériel d'évaluation de la condition des étrangers**				**Ministère d'Etat, Ministère de l'Administration du Territoire**	
	Etude (1)	1	**Etude permettant au Gouvernement d'identifier toute disposition législative et réglementaire de nature à améliorer la condition des étrangers et à protéger leurs biens et leurs personnes**				**Ministère d'Etat, Ministère de l'Administration du Territoire**	

Report de la revue [illegible] et réorganisation au 27/01/2005

Chapitre	Textes		Chronogramme				
			Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
II – REGIME ELECTORAL	Lois (5)	1	**Projet de Loi modifiant la Loi N° 2001-634 du 9 octobre 2001 portant composition, organisation, attribution et fonctionnement de la Commission Electorale Indépendante**	Adopté le 09 décembre 2004			Ministère d'Etat, Ministre de l'Administration du Territoire	• Loi N° 2004-642 du 14 décembre 2004
		2	**Loi relative à la déclaration de patrimoine du Président de la République**	Adopté le 28 juillet 2004			Ministère d'Etat, Ministre de la Justice	• Loi N° 2004-413 du 15 août 2004
		3	**Loi relative au financement aux frais publics, des partis et groupements politiques et des candidats à l'élection présidentielle, abrogeant la loi N° 96-004 du 14 décembre 1996**	Adopté le 09 septembre 2004			Ministère d'Etat, Ministre de l'Administration du Territoire	• Loi N° 2004-494 du 10 septembre 2004
		4	**Projet de loi portant répression de l'enrichissement illicite**				Ministère d'Etat, Ministre de la Justice	Rapporté après premier passage en conseil des ministres
		5	**Projet de loi relatif à l'indépendance de la justice et l'impartialité des médias en matière de propagande et de contenus électoraux**				Ministère d'Etat, Ministre de la Justice	En attente des conclusions d'une étude devant être réalisée

Ratio de la mise des textes législatifs et réglementaires au 27/01/2005

Chapitres	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
II – REGIME ELECTORAL	Décrets (5)	1	Projets de Décret d'application de la loi relative au statut de l'opposition et au financement des partis politiques et des campagnes électorales				Ministère d'Etat, Ministère de l'Administration du Territoire	En attente du texte du Ministère
		2	Projet de Décret portant composition, organisation, et fonctionnement du Conseil National de lutte contre l'enrichissement illicite				Ministère d'Etat, Ministère de la Justice	
		3	Décret fixant les modalités d'application de la loi N° 2002-43 du 21 janvier 2002 portant statut du Corps Préfectoral		N° 2003-412 du 30 Oct. 2003		Ministère d'Etat, Ministère de l'Administration du Territoire	
		4	Projet de décret portant nomination des membres de la Commission centrale de la Commission Electorale Indépendante				Ministère d'Etat, Ministère de l'Administration du Territoire	En attente du texte du Ministère
		5	Projet de Décret d'application de la loi modificative de la loi 2001-634 dans le sens d'une meilleure représentation des parties prenantes à la table Ronde, au sein de la Commission Centrale de la Commission Électorale Indépendante, y compris au sein de son Bureau				Ministère d'Etat, Ministère de l'Administration du Territoire	En attente du texte du Ministère
	Arrêté (1)	1	Arrêté portant détermination des tâches à accomplir par les Autorités Préfectorales dans la conduite du processus électoral				Ministère d'Etat, Ministère de l'Administration du Territoire	
	Etude (1)	1	Etude sur l'indépendance de la justice et l'impartialité des médias en matière de propagande et de contentieux électoraux				Ministère d'Etat, Ministère de la Justice	

Projet de la revue des textes législatifs et réglementaires au 27/01/2004

Chapitre	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
III – EL'OMBULITE A LA PRESIDENCE DE LA REPUBLIQUE	Lois (2)	1	Projet de loi portant modification de la Constitution	Adopté le 17 décembre 2004			Ministère d'Etat, Ministre de la Justice	• Adopté par l'Assemblée Nationale • En attente de promulgation
		2	Projet de loi organique portant organisation du référendum	Projet de loi rejeté par l'Assemblée Nationale le 23/12/04			Ministère d'Etat, Ministre de la Justice	• Adopté par le Conseil de Ministres du 03/12/04 • Transmis à l'Assemblée Nationale le 16/12/04 • Rejeté par l'Assemblée Nationale le 23/12/04

(2) Selon la liste des textes introduits et enregistrés au 27/01/2005

Chapitres	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
IV – REGIME FONCIER	Loi (1)	1	Loi portant amendement de l'article 26 de la loi n° 98-750 du 23 décembre 1998 relative au Domaine foncier Rural	Adopté le 28 juillet 2004			Ministère d'Etat, Ministère de l'Agriculture	• Loi N° 2004-412 du 14 août 2004
	Arrêté (1)	1	Arrêté portant organisation de la Commission Foncière Rurale			N°55 du 11 juillet 2003	Ministère d'Etat, Ministère de l'Agriculture	
	Etude (1)	1	Etude de la stratégie de communication relative à une campagne d'explication auprès des populations rurales de manière à aller effectivement dans le sens d'une véritable sécurisation foncière				Ministère d'Etat, Ministère de l'Agriculture	Phase de sélection du Cabinet

Prévu de la revue des textes législatifs et réglementaires au 27/01/2005

Chapitres	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
V - DIVERS	Loi (2)	1	Projet de loi portant régime juridique de la presse	Adopté le 09/12/04			Ministère d'Etat, Ministère de la Communication	• Loi N° 2004-643 du 14 décembre 2004
		2	Projet de loi portant régime juridique de la communication audiovisuelle	Adopté le 09/12/04			Ministère d'Etat, Ministère de la Communication	• Loi N° 2004-644 du 14 décembre 2004
	Arrêté (1)	1	Arrêté portant Création, Organisation et Fonctionnement du Comité de Pilotage des Réformes du Secteur des Médias (CPRM)			N° 54 du 19 août 2003	Ministère d'Etat, Ministère de la Communication	
	Etudes (6)	1	Etude portant sur les modalités de consolidation de l'Agence Ivoirienne de Presse (AIP)				Ministère d'Etat, Ministère de la Communication	Volet juridique finalisé Volet opérationnel et technique à renforcer
		2	Etude portant sur les modalités de consolidation du Groupe Fraternité Matin				Ministère d'Etat, Ministère de la Communication	Etude finalisée
		3	Etude portant sur les modalités de consolidation de la Radiodiffusion Télévision Ivoirienne (RTI)				Ministère d'Etat, Ministère de la Communication	Etude finalisée
		4	Etude pour la mise en place d'une architecture nationale de formation des journalistes				Ministère d'Etat, Ministère de la Communication	Etude finalisée
		5	Etude pour l'élaboration et l'adoption d'un régime économique des médias				Ministère d'Etat, Ministère de la Communication	A finaliser pour fin novembre
		6	Etude pour l'identification des types et des modalités de fonctionnement des fonds				Ministère d'Etat, Ministère de la Communication	Etude finalisée

Point de la mise des textes législatifs et réglementaires au 27/01/2005

Chapitres	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
VI – DROITS ET LIBERTE DE LA PERSONNE HUMAINE	Lois (3)	1	Loi portant création, organisation et fonctionnement de la Commission Nationale des Droits de l'Homme (CNDH)	Adopté le 23 avril 2004			Ministère des Droits de l'Homme	Loi N° 2004-302 du 03 mai 2004
		2	Projet de loi portant création, organisation, attributions et fonctionnement de la Commission Nationale d'Identification, d'Indemnisation, de Réhabilitation et de Réinsertion des Victimes de la Guerre, des Déplacés et Exilés				Ministère des Victimes de Guerre, des déplacés et exilés	• Adopté en conseil des Ministre • Transmis à l'Assemblée Nationale le 29/11/04
		3	Projet de loi de ratification du Traité de Rome portant création de la Cour Pénale Internationale				Ministère d'Etat, Ministère des Affaires Etrangères	En attente de l'avis du Conseil Constitutionnel sur la conformité ou la non conformité du Traité à la Constitution
	Décrets (1)	1	Projet de décret portant nomination des membres de la CNDH				Ministère des Droits de l'Homme	En attente du texte du ministère

Point de la mise des textes législatifs et réglementaires au 17/01/2005

Chapitre	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
VII –REGROUPEMENT, DESARMEMENT, DEMOBILISATION	Lois (2)	1	Loi portant amnistie	Adoptée le 06 août 2003			Ministère d'Etat, Ministère de la Justice	Loi N° 2003-309 du 08 août 2003
		2	Projet de Loi portant programmation militaire				Ministère de la Défense	

Chapitres	Textes			Chronogramme				
				Adoption par l'Assemblée Nationale	Signature du Décret	Signature de l'Arrêté	Ministère	Observations
VIII – REDRESSEMENT ECONOMIQUE ET NECESSITE DE COHESION SOCIALE	Décret (1)	1	Décret portant modification du décret N° 2002-445 du 16 septembre 2002 relatif à la création, aux attributions et à l'organisation du Comité de Pilotage des Réformes Economiques et Structurelles				Ministère d'Etat, Ministère de l'Economie et des Finances	
	Arrêtés (2)	1	Arrêté portant nomination des membres du secrétariat Général aux Réformes Economiques et Structurelles				Ministère d'Etat, Ministère de l'Economie et des Finances	
		2	Arrêté à la signature du Premier Ministre portant création, attribution, organisation et fonctionnement du Comité Interministériel de Reconstruction Economique et de l'Insertion Sociale				Ministère d'Etat, Ministère de l'Economie et des Finances	

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Security Council

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Letter dated 16 March 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia, and in accordance with paragraph 8 (f) of resolution 1579 (2004), I have the honour to submit herewith the preliminary report to the Council on progress towards meeting the conditions for lifting the measures on diamonds imposed in paragraph 6 of resolution 1521 (2003) (see annex).

In this connection, I would appreciate it if the present letter, together with its annex, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant
to resolution 1521 (2003) concerning Liberia

05-25886 (E) 180305

Annex

Letter dated 7 March 2005 from the Panel of Experts on Liberia addressed to the Chairman of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia

We have the honour to enclose herewith the interim report of the Panel of Experts, prepared in accordance with paragraph 8 (f) of Security Council resolution 1579 (2004).

Panel of Experts on Liberia

(*Signed*) Arthur **Blundell**

(*Signed*) Damien **Callamand**

(*Signed*) Caspar **Fithen**

(*Signed*) Tommy **Garnett**

(*Signed*) Rajiva Bhushan **Sinha**

Report of the Panel of Experts established pursuant to paragraph 8 (f) of Security Council resolution 1579 (2004) concerning Liberia

Introduction

1. Pursuant to Security Council resolution 1579 (2004) of 21 December 2004, the Secretary-General, on 17 January 2005 (S/2005/35), appointed a Panel of Experts on Liberia to undertake the tasks set out in paragraph 8 of resolution 1579 (2004), which are summarized as follows: (a) to conduct a follow-up assessment mission to Liberia and neighbouring States in order to investigate and compile a report on the implementation and any violations of the sanctions concerning arms, travel, timber and diamonds referred to in resolution 1521 (2003), including any information relevant to the designation by the Committee of the individuals described in paragraph 4 (a) of that resolution and paragraph 1 of resolution 1532 (2004), and including the various sources of financing, such as from natural resources, for the illicit trade of arms; (b) to assess the impact and effectiveness of the assets freeze imposed by paragraph 1 of resolution 1532 (2004); (c) to assess the progress made towards meeting the conditions for the lifting of sanctions, as set out in resolution 1521 (2003); (d) to assess the humanitarian and socio-economic impact of the measures imposed by paragraphs 2, 4, 6 and 10 of resolution 1521 (2003); (e) to report to the Council through the Committee by 7 June 2005 on all relevant issues; and (f) to provide a preliminary report to the Council through the Committee by 21 March 2005 on progress achieved towards meeting the conditions for lifting the measures on diamonds imposed by paragraph 6 of resolution 1521 (2003).

2. The Security Council, in its resolution 1579 (2004), renewed its existing sanctions on the import of weapons, the travel of certain individuals and the export of timber products for a further period of 12 months from the date of the adoption of the resolution. However, the Council decided, in paragraph 1 (c) of the resolution, that it would renew the prohibition on the importation of rough diamonds from Liberia imposed by paragraph 6 of resolution 1521 (2003) for a lesser period of six months and that it would review the diamond sanctions after three months in the light of a Kimberley Process visit to Liberia and the preliminary report of the Panel of Experts, with a view to lifting the measures as soon as the Council has concluded that the National Transitional Government of Liberia has established an effective certificate of origin regime for trade in rough diamonds that is transparent and internationally verifiable.

3. After preliminary work conducted in New York and elsewhere, the Panel travelled to Liberia in early February 2005. The present report contains the interim assessment on diamonds called for in paragraph 8 (f) of resolution 1579 (2004). Pursuant to paragraph 8 (e) of the same resolution, the Panel will present a final assessment of all sanctions, including the arms, timber, travel and assets freeze, as well as their socio-economic and humanitarian impact, by 7 June 2005.

4. During its visit to Liberia in February, the Panel worked closely with the Kimberley Process expert mission, which was visiting Liberia in order to: (a) assess the establishment of a transparent, effective and verifiable system to implement the Kimberley Process Certification Scheme, with a particular focus on the adoption of the relevant laws, regulations and procedures in accordance with the Certification

Scheme document; (b) review the proposed system so as to report on the volume of rough diamond production and exports from Liberia, with a view to ensuring transparency and effective implementation of the Certification Scheme; and (c) assess the adequacy of the measures in place to ensure that Liberia will no longer be able to serve as a transit point for illicit diamonds originating from neighbouring States.

General synopsis

5. The Panel of Experts continues to enjoy a positive relationship with the Liberian Ministry of Lands, Mines and Energy, and commends the Ministry for its cooperation during recent assessments and investigations. The Panel is concerned, however, by some recent developments that may be detrimental to the progress made by the National Transitional Government of Liberia towards satisfying the requirements of the Security Council necessary for the lifting of the current embargo on the export of Liberian rough diamonds.

Current situation and progress of the National Transitional Government of Liberia towards compliance

6. The Panel arrived in Monrovia on 9 February 2005 in preparation for the arrival of the Kimberley Process expert mission on 14 February. The Panel was briefed by the Ministry of Lands, Mines and Energy on progress made recently towards meeting the requirements of the Security Council and the Kimberley Process for the lifting of the embargo on the export of diamonds. Since the last visit of the Panel to Liberia, in November 2004, the Ministry of Lands, Mines and Energy has continued its training of outstation personnel for the Bureau of Mines. In particular, workshops have been conducted for the comprehensive instruction of regional coordinators (who will supervise mining agents, inspect operations and conduct preliminary investigations into alluvial matters), 65 mining agents (who will enforce mining laws and regulations) and 46 mineral inspectors (who will ensure that mining laws and regulations are adhered to in the field in compliance with the requirements of the 8 September 2004 Act amending the new Minerals and Mining Law, part 1, title 23, by adding thereto a new chapter 40 providing for controls on export, import and transit of rough diamonds and the broader Kimberley Process). However, while the Panel commends the efforts of the Ministry of Lands, Mines and Energy in respect of those training initiatives, it remains concerned by the lack of funding required to place those personnel on the payroll and successfully deploy them to the field.

7. In an attempt to combat the illegal export of diamonds from legally operating licensed mines, the Ministry of Lands, Mines and Energy, as from 14 January 2005, has suspended the issuance of all licences and permits for diamond mining. As all permits and licences expire annually on 31 December, the Ministry of Lands, Mines and Energy has essentially outlawed all diamond mining activity. In addition, the Ministry of Lands, Mines and Energy has placed a moratorium on alluvial diamond prospecting (although this does not exclude exploration at the industrial level). Nevertheless, while the Panel again commends the Ministry for this forthright initiative directed at those attempting to violate Security Council sanctions, its

legality under the terms of the Liberian Constitution has been called into question by legal representatives of those seeking to continue the mining of diamonds. Furthermore, the Ministry lacks the institutional capacity and authority to enforce this policy in remote mining areas.

8. The National Transitional Government of Liberia has also broadened its collaboration and cooperation with a number of multilateral and bilateral organizations, notably the United Nations Development Programme, which has expressed an interest in offering training assistance in connection with alluvial mining cooperative structures, which have been outlined in previous Panel reports, and the Government of the United States of America, which is aggressively pursuing authorization for a project in Liberia designed to improve implementation of the Kimberley Process through capacity-building. The United States Geological Survey has been invited by the Government of Liberia to undertake a geological survey in response to a suggestion from the Kimberley Process that a production estimate should be developed as soon as possible; however, funding for such a project has not yet been identified.

9. The Ministry of Lands, Mines and Energy has completed the first phase of its extension, which will house the assaying and computer equipment necessary for the Kimberley Process Certification Scheme. However, the building still requires extensive fitting out before it can in any way be regarded as a functioning facility. The funding required to finish the structure is still lacking.

Current patterns of mining activity

10. With the assistance of the United Nations Mission in Liberia (UNMIL), the Panel was able to conduct preliminary aerial surveys of established mining areas in Nimba County and in the Upper Lofa River region. Although the mining moratorium is presently in force, the Panel believes that illegal domestic diamond production currently stands at about $350,000 per month, a negligible amount when compared to Sierra Leone or Guinea. Much of this production is occurring in parts of Western Liberia, where there is no permanent deployment of security personnel, either UNMIL or Liberian.

Nimba County

11. Since August 2004, the Panel has monitored a sizeable class B diamond mine in close proximity to Gbapa, Nimba County (see S/2004/752). The mine, operated by a local businessman through his company, Jungle Waters, employed about 150 diggers and made use of a D-6 Caterpillar tractor as well as a number of large-bore water pumps. The mine was supported by a fairly basic sluice box washing plant, which produced about 15 to 20 carats, worth about $3,500, every two to three weeks. It was reported to the Panel by UNMIL civilian police that in November 2004 the mine suffered a major structural collapse, in which four diggers were killed and several others were seriously injured. Consequently, and as a result of acute pressure placed on the owner by the Ministry of Lands, Mines and Energy, the site was closed in November. An overflight by the Panel confirmed its closure along with that of a secondary mine located 8 kilometres to the south close to the town of

Bahn (ibid.). The Panel interviewed the owner of Jungle Waters on 16 February 2005 and was satisfied that he was no longer mining diamonds anywhere in Liberia.

Lofa River

12. On 15 February the Panel flew along the entire course of the Lofa River from Voinjama in the north-western part of the country to its Atlantic confluence. Mining activity continues on a fairly ad hoc basis between Wiesua and the Lofa Bridge. Mining activity in this region has not increased significantly since the Panel's last aerial reconnaissance of the region in November 2004; broadly, the situation remains the same. There was scattered, small-scale alluvial mining along the outwash plain of the Upper Lofa. Three or four more sizeable class B operations were also recorded in areas directly adjacent to the river in the same region. It should be noted that the canopy in much of this area is often very dense and the Panel has received reports that some illegal mining is now taking place deeper into the forest in an attempt to avoid helicopter surveillance. The Ministry of Lands, Mines and Energy lacks the resources necessary to monitor mining activity in this remote area of the country. Furthermore, there is no UNMIL deployment north of the Bomi Hills between the Lofa and Moro Rivers. This is an important area for diamond production.

American Mining Associates

13. After meeting in Monrovia with Gene Byrge, the president of American Mining Associates (AMA) and a United States national, the Panel, along with the Kimberley Process expert mission, visited the company's operational site located in the remote Kumgbor forest region of Lofa County (latitude 07° 38.170' north, longitude 10° 34.294' west), close to the Moro River and Liberia's border with Sierra Leone. There is no permanent UNMIL deployment in the region.

14. AMA has greatly improved a 35-kilometre stretch of road up to its site, which is sufficiently wide to allow a two-way flow of traffic. The Panel was informed by representatives of AMA that the company employed about 75 people and utilized four road graders, two 30-ton load trucks, two Caterpillar earth movers and a fully mechanized washing plant, as well as other items of mining equipment.

15. The Panel, along with members of the Kimberley Process expert mission and representatives of the Ministry of Lands, Mines and Energy, witnessed significant activity at the AMA site. AMA representatives there, and again in Monrovia, argued that the activity was strictly limited to exploration, for which the company held a licence. It was claimed that the site was producing no more than two stones per month and that excess washed gravel was being stored in sealed 50-gallon oil drums until such time as the Ministry's mining moratorium was lifted. The Panel, along with Kimberley Process geologists, believes that the scale of the operation was excessive for exploration activity typically associated with a small to medium-sized international mining operation. Moreover, it further transpired that the company had not filed an exploration plan with the Ministry as required under the terms of its licence requirements. Consequently, the Ministry, on 17 February 2005, ordered AMA to cease operating immediately and to provide a formal explanation of its activities.

Diamond trading

16. The Panel interviewed representatives of the five or six licensed diamond dealerships in Monrovia. All appear to have suspended operations in line with the current moratorium on diamond mining, although some remained actively engaged in the gold trade. Technically, diamonds in circulation prior to the mining moratorium can still be legally handled by the Monrovia dealers as long as there is no intent to export illegally. Nevertheless, there is evidence to suggest that foreign buyers are operating ad hoc buying offices from hotels and guest houses. They are buying illegal Liberian production and smuggling it to neighbouring States where goods may be passed off as the domestic production of those countries and obtain Kimberley Process certificates, thus legitimizing the diamonds for trade in the international market. While this kind of illegal activity is notoriously difficult to prevent, the Ministry, on 14 November 2004, issued a circular to proprietors of hotels requesting information on illegal activity. So far no arrests have been made and it can be assumed that such illegal trade in violation of the United Nations embargo persists.

West Africa Mining Corporation

17. The Panel is concerned by reports from a number of sources that the National Transitional Government of Liberia has signed a secret agreement with the West Africa Mining Corporation (WAMCO), a company financed by the privately owned London International Bank Limited. The Panel has obtained an unsigned copy of the "mining cooperatives support/mineral purchase agreement between the Republic of Liberia and West Africa Mining Corporation Limited".

18. The terms of the contract give WAMCO the exclusive right to purchase all minerals recovered by mining cooperatives that it will establish and support within all of western Liberia, except those subject to established mineral development agreements. This purchasing licence is valid for 10 years. In addition, it establishes a dealership licence that is also valid for 10 years and gives purchase rights in other areas not subject to the exclusive mineral trading contracts. WAMCO is given the option to initiate contractual extensions. Such an arrangement would create a de facto monopoly over much of Liberia's diamond-producing regions and would preclude market competition for the purchase of diamonds by dealers from alluvial artisanal miners. It is doubtful whether diggers in those conditions would receive a fair price for their goods.

19. WAMCO is required to spend $1 million each year on purchases and supplies for the establishment of cooperative and mining operations. (This investment is by the company and is called a "minimum expenditure". It does not go to the Liberian Government.)

20. There is a single payment to the National Transitional Government of Liberia of $1 million to be paid within 30 days of the signing of the agreement. It is to be paid into a special cooperative development account and is to be administered jointly with the Ministry of Lands, Mines and Energy for the establishment of mining cooperatives.

21. There is also a provision on security that allows WAMCO to create its own private guard service. Past experience with logging companies has shown that such organizations can quickly become militias (S/2004/396 and Corr.1 and 2, para. 115).

22. Specific monetary benefits to be paid to the Government are in the form of income tax, royalties and importation duties, as follows:

- *Income tax*. Income tax is limited to 30 per cent for the first 10 years and 35 per cent thereafter and is based on gross income minus expenses of operations, depreciation, capital losses, interest paid, other taxes, bad debts, exchange losses and prior-year losses
- *Royalties*. Three per cent is due on the gross revenue base for diamonds when Kimberley Process certificates are issued and up to five per cent is due on gross revenue from other minerals
- *Importation duties*. The full import duty and taxes are to be paid on imported gasoline, but only 10 per cent of import duty and excise tax is owed on non-fuel products and oils

23. There is a provision that gives the Government of Liberia 10 per cent equity interest in the operations of WAMCO when the Government exercises the option. WAMCO must also offer the Government or Liberian citizens 10 per cent of its stock at fair market value within 60 days of the effective date of the contract.

24. The conditions under which this agreement was negotiated remain extremely opaque. There was no formal or open bidding process and no consultations with the Liberian Monopolies and Contracts Commission. The Panel interviewed representatives of WAMCO in Monrovia. It transpired from that meeting that the company had had no previous experience in the mining sector whatsoever.

Kimberley Process expert mission

25. The Kimberley Process expert mission conducted a thorough assessment from 14 to 18 February 2005 of steps taken by the National Transitional Government of Liberia to apply for participation in the Kimberley Process Certification Scheme. The Panel is aware that a senior representative of the Kimberley Process will address the United Nations sanctions committee on 9 March 2005 and present its findings with regard to the situation in Liberia. Having consulted with the Kimberley Process expert mission, the Panel is aware that the Kimberley Process believes that Liberia is still some way from a successful application to participate in its certification scheme. In particular, the expert mission formed the opinion that Liberia still lacked functional internal controls and monitoring systems. Moreover, it believed that an absence of UNMIL peacekeepers, as well as of State security and government administration in the western diamond-producing regions, is contributing to illegal mining activities in Liberia. The Panel broadly shares this view.

Conclusions

26. Slow funding and technical assistance continue to hamper efforts by the National Transitional Government of Liberia to meet the requirements of the Security Council.

27. Poor security in diamond-producing regions is contributing to illegal mining and smuggling activity in Liberia.

28. Recent evidence suggests that the National Transitional Government of Liberia is forging an exclusive mineral purchase and cooperative development agreement with an international company of unknown provenance and with no mining sector experience in an atmosphere of secrecy. The people of Liberia are not likely to benefit from such an arrangement in the long term.

29. Liberia is not yet in a position to make a successful application for participation in the Kimberley Process.